

STANDING COMMITTEE REPORT NO. 15-121

RE: CB 15-127/W&M

SUBJECT: EXEMPTING IMPORT DUTIES ON CERTAIN DONATED GOODS

MAY 29, 2008

The Honorable Isaac Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Fourth Regular Session, 2008

Dear Mr. Speaker:

Your Committee on Ways and Means, to which was jointly referred C.B. 15-127, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 54 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BE AMENDING SECTION 222 TO EXEMPT IMPORT DUTIES ON CERTAIN DONATED GOODS DONATED TO DIRECTLY BENEFIT THE FSM NATIONAL GOVERNMENT OR ANY OF THE FOUR FSM STATES OR ANY CHARITABLE ORGANIZATION DULY ESTABLISHED IN THE FSM, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

Section 222 of title 54 currently permits exemptions to import duties for certain goods. These include damaged, pillaged or faulty goods, goods imported for subsequent export, certain goods carried in per trip abroad, returning goods, goods used in foreign aid projects, certain fishing vessels and equipment, and parcels that would attract a de minimis duty.

This bill seeks to create another category for exemption of import duty: certain donated goods.

Public Hearing

Your Committee on Ways and Means held a public hearing on Wednesday May 20 at 12 noon in the Congress Hearing Room. Witnesses from the Department of Finance (Office of the Secretary), the Attorney-Generals Department, Customs and Tax Administration and the Department of Transport, Communications and Infrastructure were in attendance.

The Executive branch instigated the amendment to Section 222. All witnesses testified that they are in strong support of the bill.

Witnesses testified that the past practice of Customs and Tax Administration was to exempt certain donated goods from import duty, as specified in the regulations. However, in 2006 an opinion from the

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Attorney-General on this practice ruled it illegal. Title 54 itself has no provision for such exemptions to be granted.

To rectify this, the bill contains a new subsection (9) to exempt certain donated goods from import duty.

Conditions apply to this exemption, and notarised documents are required to be submitted to the Secretary of Finance to be granted any exemption to import duty.

The types of goods that qualify for the exemption are books, medicine, emergency relief supplies, building or construction materials and supplies, and emergency vehicles (solely limited to police vehicles, fire trucks and ambulances), as well as equipment and supplies to operate the emergency vehicles.

Your Committee is of the opinion that the categories of donated goods should be expanded to include educational supplies (for example blackboards and desks) and medical supplies (for example, wheelchairs and hospital beds).

Retroactivity

In its current form, the bill contains a retroactive clause, rendering the import exemptions for certain donated goods to be retroactive in application to ARF fire trucks and accessories received as donated goods in each of the four states on specified dates.

Your committee is concerned with the retroactive clause after hearing testimony from Congress members that there are containers of donated goods that would meet the requirements for exemptions under this bill that are currently held by customs pending payment of import duty. The members requested that specific exemptions be granted for these goods as well.

Your Committee realizes the merit of these claims for exemption, however in the interests of equity and efficient delivery of customs and tax services, it cannot recommend any retroactive application of this bill. Your Committee recommends instead that the import duty for the fire trucks and equipment in question be paid by the National Government, and the exemption for certain donated goods apply from the date of application of the bill when signed into law.

Recommendations of your Committee.

Your Committee on Ways and Means has given careful consideration to the proposed amendments in C.B. No. 15-127 and is in favour of the

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amendments. It recommends the insertion of extra categories of donated goods.

Based on the above, your Committee on Ways and Means is in accord with the intent and purpose of C.B. No. 15-127 and recommends its passage on First reading in the form of C.B. No. 15-127, C.D.1, and that it be placed on the calendar for Second and Final Reading in the form attached hereto as C.B. No 15-127, C.D.1.

Respectfully submitted,

/s/ Dohsis Halbert
Dohsis Halbert, chairman

/s/ Setiro Paul
Setiro Paul, member

Moses A. Nelson, member

/s/ Claude H. Phillip
Claude H. Phillip, member

/s/ Fredrico O. Primo
Fredrico O. Primo, member

Peter Sitan, member

Joseph J. Urusemal, member